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HELEN SAMSON

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Helen Samson
Signature

JULY 6, 2006

Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of: Samson et al.

Attorney Docket No.: NU-216

Serial No.: 10/820,475

Confirmation No.: 7575

Filed: 04/08/2004

Art Unit: 2874

Customer No.: 000038731

Examiner: Wood, Kevin S.

Title: **OPTICAL FIBER FOR HANDLING HIGHER POWERS**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

July 6, 2006

RESPONSE TO
ELECTION/RESTRICTION REQUIREMENT

Dear Sir:

This Response to Election/Restriction Requirement is in response to the Office Communication mailed March 6, 2006 in the above-identified application, the time for response to which is extended to July 6, 2006 by the Request for Three Month Extension of Time included below in this Response. This response is being filed electronically.

Election of Species

The Examiner requires that the Applicants elect a single disclosed species from the following species identified by the Examiner:

- I. Claims 1-28
- II. Claims 29-33
- III. Claims 34-43

Applicants traverse the election requirement, which, it is respectfully submitted, is improper for a variety of reasons.

First, Applicants traverse the election requirement because the Examiner has identified *claims* as representative of species. As indicated by MPEP §806.04(e), claims are definitions of inventions, not species. Species are always the specifically different embodiments. The Examiner has made no attempt to determine which embodiments of the present application correspond to species. The species should be identified as the species of, for example, “figures 1, 2 and 3”, or the “species of examples I, II or III”. Only if the species cannot be conveniently identified can claims be grouped in accordance with the species to which they are restricted. See MPEP §809.02(b).

Second, the species identified by the Examiner are not proper species; species must be mutually exclusive, as is appreciated by the Examiner and noted at MPEP 806.04(f). Species I, II and III are not mutually exclusive. The Examiner considers that the species are mutually exclusive because “Species II claims a birefringence value that is not claimed in Species I or Species III” and because “Species III claims concentration of photosensitive material which is not claimed in Species I or Species II.” However, the recitation of a birefringence value in claims of Species II is not mutually exclusive with recitations of claims of Species I and III. For example, Species I in fact includes dependant claims broadly stating that the fiber is birefringent. Similarly, the recitation of concentration of a photosensitive material in claims of Species III is not mutually exclusive with claims of Species I and II. For example, Species I in fact includes claims reciting that a region of fiber is photosensitive or that the fiber includes a concentration of

photosensitive material. That a claim fails to recite a feature recited by another claim or to recite the feature with the same specificity as the other claim does not establish that the claims are mutually exclusive.

Applicants also traverse the Election/Restriction requirement on the basis that it would not be unduly burdensome for the Examiner to search all of the claims of the application at one time.

Reconsideration and withdrawal of the election requirement is respectfully requested.

Applicants elect, with traverse for at least the reasons identified above, Species I, claims 1 - 28 for prosecution on the merits, as required under 35 USC §121.

Request for Three Month Extension of Time

Applicants hereby request an extension of time of three months for response to the outstanding Office Action mailed March 6, 2006, in the above-identified application. As the outstanding Office Action provided for a one month shortened statutory time period for reply, the time for reply is now extended to July 6, 2006 by this Request for Three Month Extension of Time.

Electronic Payment of Fees

Fees associated with this filing (Three Month Extension of Time fee of \$510 for a Small Entity) are being paid electronically. No other fees are considered to be due. However, if it is determined that an additional fee is due, or that an overpayment has been made, please debit or credit, as appropriate, Deposit Order Account 50-2343.

Conclusion

This Response attends to all issues raised in the outstanding Office Action. No fee other than the fees associated with the Request for a Three Month Extension of Time is considered to be due in conjunction with the submission of this Response. However, if an additional fee is determined to be due in association with the filing of this Response,

or if an underpayment or overpayment of a fee is made, authorization is hereby granted to charge or credit, as appropriate, Nufern Deposit Order Account No. 50-2343.

Please do not hesitate to contact the undersigned if any issues are deemed to remain unresolved.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter J. Rainville". The signature is fluid and cursive, with the first name "Peter" and last name "Rainville" clearly distinguishable.

Peter J. Rainville, Reg. No. 41,263
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